

Remarks

Claims 1-9, 11 and 13-22 were pending.

Claims 1-3, 5 and 11 are amended.

Claims 4, 6-9 and 13-22 are as previously presented.

Claim 1 is amended to insert the phrase "obtained by calcination of plane-parallel structures (flakes) comprising at least one layer consisting of a metal and at least one layer consisting of SiO_2 with $0.70 \leq z \leq 2.0$, in a non-oxidizing atmosphere" into the description of component (B). Support is found in the specification on page 1, lines 1-2 and page 2 lines 1-2.

Claim 2 is amended for clarity by deleting the phrase "at least one layer, which consists of the metal, silicon (Si) and oxygen (O)," from line 2 immediately following the term "(B)". The deleted language represents an incomplete definition of the layer which makes up component (B). Further, as claim 2 is dependent on claim 1, the limitations of component (B) are by definition those found in the parent claim and complete recitation of the limitations would be redundant.

Likewise, claims 3 and 5 are amended for clarity by deleting the phrases "at least one layer," and "and consists of the metal, silicon (Si) and oxygen (O)," from line 2 for the reasons discussed in the preceding paragraph.

Claim 11 is amended to remove a superfluous comma from line 1.

No new matter is added.

Restriction

The Examiner has asked Applicants to elect a single invention from the following:

Group I - Claims 1, 6, 8, 9 and 10-12 drawn to a metal containing pigment,

Group II - Claims 2, 6 and 10-12 drawn to a silicon containing layered pigment,

Group III - Claims 3, 6, 7 and 10-12 drawn to a three-layered pigment,

Group IV - Claims 4, 6 and 10-12 drawn to a four-layered pigment,

Group V - Claims 5, 6 and 10-12 drawn to a five-layered pigment.

Applicants respectfully note that claims 10 and 12 were cancelled and claims 13-22 were added in the preliminary amendment filed along with the filing papers on April 15, 2005. However, the amendments were largely for formal rather than substantive reasons and it is apparent how the amended and new claims fit into the Groups above.

Also, while the instant amendments to claim 1 etc in this paper add a greater amount of clarity to the claims, Applicants feel that the present restriction is not based on a reading of the claims that Applicants had intended. Prior to making the required election, which is detailed below, Applicants wish to more fully explain their invention as originally claimed, reply to the restriction as they related to the claims as previously presented, and clear up any misunderstanding that may exist regarding the claimed subject matter. Applicants believe that this will aid in the prosecution of this application.

The Examiner states that the instant claims lack a common special technical feature which defines a contribution over the art under PCT rules. The Examiner states that Group I does not require a layer that consists of metal, Si and O which is a special technical feature of Group II; that Group II does not require two outer layers of SiO₂, a technical feature which is found in Group III; Group III lacks a feature of Group IV and Group IV lacks a feature of Group V.

Applicants respectfully disagree with the Examiner's analysis. PCT rules do not require that all claims contain each technical feature of each individual claim; rather, each claim must contain a common technical feature that defines a contribution over the art. It is therefore not necessary that claim 1 contain every feature of claim 2 as long as claim 2 contains that feature of claim 1 that is new.

Relative to the proposed claim Groups, Applicants respectfully point out that original claim 1 does not relate to a "metal containing pigment" but rather to a pigment which comprises at least one layer consisting of a metal, silicon and oxygen, i.e., layer (B). Other layers, included optional layers (A) and (C), may also be present. (The instant amendments further clarify component (B).)

Original claim 2 does not relate to a "silicon containing layered pigment", but to a pigment comprising said component (B) of claim 1, (i.e., at least one layer consisting of a metal, silicon and oxygen) which pigment also has at least one additional SiO₂ layer on layer (B). That is claim 2 is the pigment of claim 1 wherein layer (C) is not optional.

Claims 3, 4 and 5 are likewise pigments comprising said layer (B) and further define or require certain "other layers" which may be present in the pigments of claim 1 under the language of claim 1.

Thus, Applicants respectfully note that claims 2-7 and 13-17 all depend ultimately from claim 1 and as such, the pigments of these claims necessarily contain the novel technical feature of the parent. Applicants also note that claim 1 is an open claim, reading "A pigment, comprising" and as such encompasses the more narrow scope of each dependent claim since the role of a properly dependent claim is to add additional limitations defining specific subsets of the parent. That is, each pigment of the dependent pigment claims is explicitly a pigment of claim 1.

Relative to the presence of a special technical feature linking the claims under PCT rules, it is Applicants' position that the special technical feature is component (B), fully described in instantly amended claim 1 as "at least one layer(which) consists of the metal, silicon (Si) and oxygen (O), obtained by calcination of plane-parallel structures (flakes) comprising at least one layer consisting of a metal and at least one layer consisting of SiO_z with $0.70 \leq z \leq 2.0$, in a non-oxidizing atmosphere". This component is common to all pigments claimed. Applicants believe that any pigment comprising component (B), regardless of the presence of other layers, is novel and that the presence of component (B) links each pigment claim 1-7 and 13-17.

Applicants respectfully note that the Examiner has included compositions comprising the pigments, claims 11, 20 and 22 (original claims 10-12), in each proposed claim group and includes claims 8 and 9 in claim Group I. Applicants believe that this is in accord with PCT rules which allow for to the application of a novel or a composition comprising said novel material and a means for preparing the new material as part of a general inventive concept.

To further prosecution, and in response to the restriction requirement, Applicants hereby elect with traverse Group I, claims 1, 6, 8, 9, 11, 13, 18, 19, 21 and 22 drawn to a pigment containing a layer consisting of a metal, silicon and oxygen obtained by calcination of plane-parallel structures (flakes) comprising at least one layer consisting of a metal and at least one layer consisting of SiO_z with $0.70 \leq z \leq 2.0$, in a non-oxidizing atmosphere.

Applicants' traversal is based on the fact that each of the remaining Groups II through V relate to claims that are all linked by the presence of component (B) in a pigment as described above.

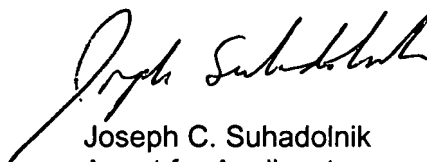
Further, the claims of claim Groups II through V are all dependent on claim 1 and as such contain all the limitations of claim 1 and are subsets of claim 1. Therefore, Applicants believe that if claim 1 should be found allowable, these claims would also be allowable should claim 1 be found allowable.

Applicants therefore kindly ask that the Examiner rejoin the material of the claims outside of elected Group I either now or upon finding the elected claims allowable.

In the event that present reply is insufficient in some regard and further clarification is necessary, Applicants kindly request that the examiner contact the undersigned representative.

Consideration of the elected claims on their merits is respectfully awaited.

Respectfully submitted,



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